



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2022-0971]

RIN 1625-AA00

### Safety Zone; New Year's Fireworks Show, Savannah River, Savannah, GA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters of the Savannah River around Savannah, GA for the Savannah's Waterfront New Year's Eve event. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by fallout from the fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Savannah or a designated representative.

**DATES:** This rule is effective from 11 p.m. on December 31, 2022, through 00:30 a.m., on January 1, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0971 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MSTC Ashley Schad, of the Marine Safety Unit Savannah Office of Waterways Management, Coast Guard, at telephone 912-652-4353, extension 231, or via email at [Ashley.M.Schad@uscg.mil](mailto:Ashley.M.Schad@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The primary justification for this action is that the Coast Guard did not receive final details of the event until December 8, 2022 and the event is scheduled to begin on December 31, 2022. The event would begin before the rulemaking process would be completed. Therefore, the Coast Guard lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. Because of the dangers posed by the fireworks display, a safety zone is necessary without delay. It is impracticable and contrary to the public interest to delay promulgating this rule because it is necessary to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date of this rule would be impracticable because immediate action

is needed to respond to the potential safety hazards associated with a fireworks display adjacent to a major shipping channel.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Savannah (COTP) has determined that potential hazards associated with a fireworks display on the Savannah River, near downtown Savannah, starting 11:00 p.m. on December 31, 2022, through 00:30 a.m., on January 1, 2023 will be a safety concern for anyone within the area. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the New Year's Eve Fireworks display.

### **IV. Discussion of the Rule**

This rule establishes a temporary safety zone from 11 p.m. on December 31, 2022, through 00:30 a.m., on January 1, 2023. The safety zone will cover all navigable waters in the Savannah River adjacent to downtown Savannah. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by fallout from the New Year's Eve Fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative.

### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

#### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the following reasons: (1) the safety zone only being enforced for a total of one hour and thirty minutes; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the areas during the enforcement period if authorized by the COTP or a designated representative.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction

and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves This rule involves a safety zone lasting only one hour and thirty minutes that will prohibit entry within certain navigable waters of the Savannah River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

Add § 165.T07-0971 to read as follows:

#### **§ 165.T07-0971 Safety Zone; New Year's Fireworks Show, Savannah River, Savannah, GA.**

(a) *Location.* The following area is a safety zone: All waters of the Savannah River, from surface to bottom, bounded by a line drawn from a point located at 32° 4'56.79" N, 0 81° 5'18.24" W, thence to 32°05'10" N, 081°05'39" W, thence to 32°05'04" N, 081°05'30" W, thence to 32°04'57" N, 081°05'34" W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Savannah (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

- (2) Persons or vessels desiring to enter, transit through, anchor in, or remain

within the safety zone may contact COTP Savannah by telephone at (912) 247-0073, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Broadcast Notice to Mariners, Marine Safety Information Bulletins, and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from from 11 p.m. on December 31, 2022, through 00:30 a.m., on January 1, 2023.

Dated: December 21, 2022

K.A. Broyles,  
Commander, U.S. Coast Guard,  
Captain of the Port Savannah.

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